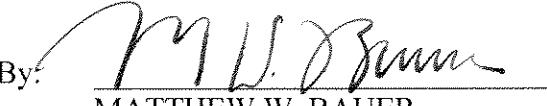


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**TO: CLERK OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK.**

YOU WILL PLEASE ENTER the default of the defendants, JBS Inc., II a South Carolina Corporation, Jonathan B. Smith and Marci Singleton Smith for failure to plead or otherwise defend as provided by the Federal Rules of Civil Procedure.

CONNELL FOLEY LLP  
Attorneys for Plaintiff,  
Days Inns Worldwide, Inc.

By:   
MATTHEW W. BAUER

Dated: March 21, 2008

Connell Foley LLP  
 85 Livingston Avenue  
 Roseland, New Jersey 07068  
 (973) 535-0500  
 Attorneys for Plaintiff,  
 Days Inns Worldwide, Inc.

**UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK**

DAY'S INNS WORLDWIDE, INC.,  
 formerly known as DAY'S INNS OF  
 AMERICA, INC., a Delaware Corporation,

**Civil Action No.: 08cv0027 (VM)**

Plaintiff,

v.

JBS INC., II a South Carolina Corporation;  
 JONATHAN B. SMITH, an individual; and  
 MARCI SINGLETON SMITH, an  
 individual,

Defendants.

**CERTIFICATION OF MATTHEW  
 W. BAUER IN SUPPORT OF  
 REQUEST FOR ENTRY OF  
 DEFAULT PURSUANT TO FED. R.  
 CIV. P. 55(a)**

MATTHEW W. BAUER, of full age, hereby certifies and states:

1. I am an attorney-at-law of the State of New York and a member of the law firm of Connell Foley LLP, attorneys for plaintiff, Days Inns Worldwide, Inc., formerly known as Days Inns of America, Inc., a Delaware Corporation ("Plaintiff"), in the above-captioned matter. As such, I have personal knowledge of the facts contained herein.

2. I make this certification in support of Plaintiffs' application for the entry of default against defendants, JBS Inc., II a South Carolina Corporation, Jonathan B. Smith and Marci Singleton Smith, pursuant to Federal Rule of Civil Procedure 55(a).

3. The summons and a copy of the complaint in this action were served upon JBS

Inc., II a South Carolina Corporation, on January 26, 2008 at 243 Dogwood Lane, Myrtle Beach, South Carolina 29572, as appears from the Return of Service filed with the Court. Marci Singleton Smith, an officer of the Corporation, accepted service on its behalf. (See Document No. 8).

4. The summons and a copy of the complaint in this action were served upon Jonathan B. Smith, on January 26, 2008 at 243 Dogwood Lane, Myrtle Beach, South Carolina 29572, as appears from the Return of Service filed with the Court. Marci Singleton Smith, spouse of the defendant Jonathan B. Smith, accepted service on his behalf. (See Document No. 7).

5. Subsequently thereto, the defendant, Jonathan B. Smith, contacted our office and advised that he would accept service of the summons and complaint via regular mail. On February 6, 2008, we also mailed a copy of the summons and complaint via regular mail to 228 North Front Street, Suite 101, Wilmington, North Carolina 28401 and 977 Briarwood Drive, Myrtle Beach, South Carolina 29572. (A true and correct copy of the letter dated February 6, 2008 is attached hereto as Exhibit A). A Supplemental Affidavit of Service concerning the foregoing was filed with the Court on March 20, 2008. (See Document No. 10).

6. The summons and a copy of the complaint in this action were served upon Marc Singleton Smith, on January 26, 2008 at 243 Dogwood Lane, Myrtle Beach, South Carolina 29572, as appears from the Return of Service filed with the Court. (See Document No. 6)

7. The time in which defendants, JBS Inc., II a South Carolina Corporation, Jonathan B. Smith and Marci Singleton Smith may answer or otherwise respond to the aforementioned Complaint has expired and has not been extended or enlarged by the Court, and defendants, JBS Inc., II a South Carolina Corporation, Jonathan B. Smith and Marci Singleton Smith, have not answered or otherwise moved.

8. Pursuant to Local Civil Rule 55.1, defendant, JBS Inc., II, a South Carolina

Corporation, is a legal entity, and therefore, cannot be in the military service of the United States.

9. On March 18, 2008, the Defense Manpower Data Center verified that defendant, Jonathan B. Smith, is not in the military service of the United States, pursuant to Local Civil Rule 55.1. (A copy of the report of the Defense Manpower Data Center is attached hereto as Exhibit B).

10. On March 18, 2008, the Defense Manpower Data Center verified that defendant, Marci Singleton Smith, is not in the military service of the United States, pursuant to Local Civil Rule 55.1. (A copy of the report of the Defense Manpower Data Center is attached hereto as Exhibit C).

11. Accordingly, this request is being made for the entry of default against defendants, JBS Inc., II a South Carolina Corporation, Jonathan B. Smith and Marci Singleton Smith, in the above-captioned matter.

I certify under penalty of perjury that the foregoing is true and correct.



MATTHEW W. BAUER

Executed on: March 21, 2008  
Roseland, New Jersey

---

# EXHIBIT A

## CONNELL FOLEY LLP

## ATTORNEYS AT LAW

85 LIVINGSTON AVENUE

ROSELAND, N.J. 07068-3702

(973) 535-0500

FAX: (973) 535-9217

## JERSEY CITY OFFICE

HARBORSIDE FINANCIAL CENTER

2510 PLAZA FIVE

JERSEY CITY, N.J. 07311-4029

(201) 521-1000

FAX: (201) 521-0100

## NEW YORK OFFICE

888 SEVENTH AVENUE

NEW YORK, N.Y. 10106

(212) 262-2390

FAX: (212) 262-0050

## PHILADELPHIA OFFICE

1500 MARKET STREET

PHILADELPHIA, PA 19102

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FAX: (215) 665-5727

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 M. TREVOR LYONS\*  
 CLARENCE SMITH, JR.\*\*  
 CRAIG S. DEMARESKI\*  
 ELIZABETH W. EATON  
 JOSEPH M. MURPHY  
 W. NEVINS McCANN\*  
 JASON E. MARX\*  
 THOMAS J. CLEARY\*  
 MITCHELL W. TARASCHI  
 MICHAEL A. SHADICK  
 OWEN C. McCARTHY  
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 ANTONIO CELI\*  
 JAMES M. MERENDINO  
 MICHELE T. TANTALLA\*  
 AGNES ANTONIAN\*  
 BRYAN P. COUCH\*  
 GREGORY E. PETERSON  
 HECTOR D. RUIZ\*  
 NEIL V. MODY\*  
 ROBERT A. VERDIBELLO\*  
 MICHAEL J. ACKERMAN\*  
 MELISSA A. ZAWADZKI\*  
 MEGHAN C. GOODWIN\*  
 MATTHEW S. SCHULTZ\*  
 JENNIFER C. CRITCHLEY\*  
 PATRICK S. BRANNIGAN\*

MATTHEW I. GENNARO  
 DANIELA R. D'AMICO\*  
 DANIA M. BILLINGS\*  
 RONAL R. CHOKSHI\*  
 CHRISTINE I. GANNON\*  
 JOSE VILARINO  
 PHILIP W. ALLOCAMENTO III\*  
 CATHERINE G. BRYAN\*  
 JAMES C. HAYNIE\*  
 LAURIE B. KACHONICK\*  
 MEGAN M. ROBERTS\*  
 ANDREW C. SAYLES\*  
 SARAH BLUMBERG\*  
 STEPHEN D. KESSLER  
 ADAM M. LUSTBERG\*  
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 AARON M. BENDER  
 WILLIAM D. DEVEAU\*  
 ILONA KORZHA\*  
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 MELISSA ASTUDILLO\*  
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 NICOLE B. DORY\*  
 PATRICK E. DURING  
 CHRISTIAN J. JENSEN\*  
 JOSEPH A. VILLANI, JR.\*  
 LEE B. WILSON

PLEASE REPLY TO ROSELAND, N.J.

JOHN A. PINDAR (1969)  
 GEORGE W. CONNELL (2005)  
 ADRIAN M. FOLEY, JR.  
 GEORGE J. KENNY\*  
 KENNETH F. KUNZMAN  
 SAMUEL D. LORD  
 RICHARD D. CATENACCI  
 RICHARD J. BADOLATO\*  
 PETER D. MANAHAN  
 JOHN B. MURRAY  
 MARK L. FLEDER  
 KEVIN J. COAKLEY  
 WILLIAM H. GRAHAM\*  
 THOMAS S. COSMA  
 KATHLEEN S. MURPHY  
 PATRICK J. MCNAULEY  
 PETER J. PIZZI\*\*  
 KEVIN R. GARDNER  
 ROBERT E. RYAN  
 MICHAEL X. MCBRIDE\*  
 JEFFREY W. MORYAN  
 JOHN K. BENNETT  
 PETER J. SMITH\*  
 BRIAN C. STELLER  
 PHILIP M. McGOVERN, JR.  
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 LIZA M. WALSH  
 JOHN P. LACEY  
 TIMOTHY E. CORRISTON\*  
 ERNEST W. SCHOLELKOPFF\*  
 PATRICK J. HUGHES\*\*  
 JAMES C. McCANN\*  
 JOHN D. CROMIE  
 ANGELA A. RUSO\*

GLENN T. DYER  
 CLARENCE SMITH, JR.\*\*  
 WILLIAM T. MCLOIN\*  
 BRENDAN JUDGE  
 DAREN S. MCNALLY\*  
 STEPHEN V. FALANGA\*  
 JEFFREY L. O'HARA  
 TRICIA O'REILLY\*  
 ANTHONY F. VITIELLO\*  
 MARC D. HAEFNER  
 JONATHAN P. MCHENRY  
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 NANCY A. SKIDMORE\*  
 THOMAS M. SCUDERI\*

\*ALSO ADMITTED IN NEW YORK

\*\*ALSO ADMITTED IN PENNSYLVANIA

—ONLY ADMITTED IN NEW YORK

WRITER'S DIRECT DIAL

February 6, 2008

*Via Regular Mail*

Jonathan B. Smith  
 228 North Front Street, Suite 101  
 Wilmington, North Carolina 28401

Jonathan B. Smith  
 977 Briarwood Drive  
 Myrtle Beach, South Carolina 29572

Re: Days Inns Worldwide, Inc. v. JBS Inc., II, a South Carolina Corporation, et al.  
 Civil Action No. 08-cv-0027

Dear Mr. Smith:

Pursuant to your recent telephone discussion with our office, enclosed is a copy of the Summons and Complaint in this matter, filed on January 3, 2008.

This correspondence shall confirm that you have agreed to accept service of same via regular mail. Please be guided accordingly.

Very truly yours,



MATTHEW S. SCHULTZ

---

# **EXHIBIT B**

Department of Defense Manpower Data Center

MAR-18-2008 07:57:54



Military Status Report  
Pursuant to the Servicemembers Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Service/Agency
SMITH	Jonathan B.		Based on the information you have furnished, the DMDC does not possess any information indicating that the individual is currently on active duty.	

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Military.

*Mary M. Snavely-Dixon*

---

Mary M. Snavely-Dixon, Director  
Department of Defense - Manpower Data Center  
1600 Wilson Blvd., Suite 400  
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The Department of Defense strongly supports the enforcement of the Servicemembers Civil Relief Act [50 USCS Appx. §§ 501 et seq] (SCRA) (formerly the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's active duty status by contacting that person's Military Service via the "defenselink.mil" URL provided below. If you have evidence the person is on active-duty and you fail to obtain this additional Military Service verification, provisions of the SCRA may be invoked against you.

If you obtain further information about the person ( e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects current active duty status only. For historical information, please contact the Military Service SCRA points-of-contact.

See: <http://www.defenselink.mil/faq/pis/PC09SLDR.html>

WARNING: This certificate was provided based on a name and Social Security number (SSN) provided

by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.

*Report ID: BEOKQVCLVEO*

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# EXHIBIT C

Department of Defense Manpower Data Center

MAR-18-2008 07:59:24



Military Status Report  
Pursuant to the Servicemembers Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Service/Agency
SMITH	Marci Singleton		Based on the information you have furnished, the DMDC does not possess any information indicating that the individual is currently on active duty.	

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Military.

*Mary M. Snavely-Dixon*

Mary M. Snavely-Dixon, Director  
Department of Defense - Manpower Data Center  
1600 Wilson Blvd., Suite 400  
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

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WARNING: This certificate was provided based on a name and Social Security number (SSN) provided

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*Report ID: BEEMXITUAZC*

---

Connell Foley LLP  
 85 Livingston Avenue  
 Roseland, New Jersey 07068  
 (973) 535-0500  
 Attorneys for Plaintiff, Days Inns Worldwide, Inc.

**UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK**

<p>DAYS INNS WORLDWIDE, INC., formerly known as DAYS INNS OF AMERICA, INC., a Delaware Corporation,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>JBS INC., II a South Carolina Corporation; JONATHAN B. SMITH, an individual; and MARCI SINGLETON SMITH, an individual,</p> <p style="text-align: center;">Defendants.</p>	<p>Civil Action No. 08cv0027 (VM)</p> <p style="text-align: center;"><b>CLERK'S CERTIFICATION</b></p>
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I, J. MICHAEL MCMAHON, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on January 3, 2008 with the filing of a summons and complaint, a copy of the summons and complaint was served on defendants, JBS Inc., II a South Carolina Corporation, Jonathan B. Smith and Marci Singleton Smith, and proof of such service thereof was filed on February 21, 2008.

I further certify that the docket entries indicate that the defendants, JBS Inc., II a South Carolina Corporation, Jonathan B. Smith and Marci Singleton Smith have not filed an answer or otherwise moved with respect to the complaint herein. The default of the defendants, JBS Inc., II a South Carolina Corporation, Jonathan B. Smith and Marci Singleton Smith is hereby noted.

Dated: \_\_\_\_\_, New York

\_\_\_\_\_  
 J. MICHAEL MCMAHON  
 Clerk of the Court

By: \_\_\_\_\_  
 Deputy Clerk